

1 IN THE CIRCUIT COURT

2 FOR BALTIMORE CITY

3 ALLEN WRIGHT, et al., \*

4 Plaintiffs \*

5 v. \* CASE NO:

6 LEAD INDUSTRIES ASSOCIATION, \* 94363042/CL190487

7 INC., et al., \* 94363043/CL190488

8 Defendants \*

9 \* \* \* \* \*

10 VIDEOTAPE DEPOSITION OF GARY E. WELCH

11  
12 The Videotape Deposition of Gary E. Welch

13 was taken on Tuesday, March 12, 1996, commencing

14 at 10:00 a.m. at the Law Offices of Peter G. Angelos,

15 300 East Lombard Street, Baltimore, Maryland before

16 Denise M. Thomas, Notary Public.

17  
18 EVANS REPORTING SERVICE

19 2422 Southwest Road

20 Baltimore, Maryland 21236

21 (410) 882-0208

COPY



DR70-00307

## 1 APPEARANCES:

2 THOMAS L. SAMUEL, ESQUIRE

Law Offices of Peter G. Angelos

3 On behalf of the Plaintiffs

4 WILLIAM R. SKALLERUD, ESQUIRE

Popham, Haik, Schnobrich &amp; Kaufman

5 On behalf of the Defendant, The Glidden Company

6 PHILIP H. CURTIS, ESQUIRE

Arnold &amp; Porter

7 On behalf of the Defendant, Atlantic Richfield  
Company

8 EDWARD F. HOUFF, ESQUIRE

9 Church &amp; Houff, P.A.

10 On behalf of the Defendant, Sherwin-Williams  
Company

11 EDWARD M. BUXBAUM, ESQUIRE

Whiteford, Taylor &amp; Preston

12 On behalf of the Defendant, A. Bauer &amp; Company

13 MARK L. SULLIVAN, ESQUIRE

Sullivan, Sullivan &amp; Pinta

14 On behalf of the Defendant, Lead Industries  
Association, Inc.

15 CHARLES S. HIRSCH, ESQUIRE

16 Ballard, Spahr, Andrews &amp; Ingersoll

On behalf of the Defendant, DuPont

17 PETER F. AXELRAD, ESQUIRE

18 ADAM CALDWELL, ESQUIRE

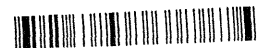
Jackson &amp; Campbell

19 On behalf of the Defendant, Doe Run

20 DENNIS J. SULLIVAN, ESQUIRE

Rollins, Smalkin, Richards &amp; Mackie

21 On behalf of the Defendant, Schuman Hardware



DR70-00308

## P R O C E E D I N G S

\* \* \* \* \*

VIDEO OPERATOR: Good morning. Today is  
Tuesday, March 12th, 1996. The time is  
approximately 10:08 a.m.

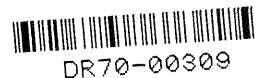
Our location is Law Offices of Peter  
Angelos at 300 East Lombard Street, Baltimore,  
Maryland.

The deposition -- this is the deposition  
of Gary Welch in the matter of case number  
943663042/CL190487 94363043/CL190488.

The court reporter is Denise Thomas  
employed by Evans Reporting. The videographer is  
Sam Livingston employed by Deposition Specialists.

Will counsel please identify themselves  
for the record.

MR. AXELRAD: Let me just say something.  
This is not technically the deposition of Gary  
Welch. He is here as a representative of Doe Run,  
one of the defendants. It is the corporate  
designation. It is the designation of deposition of



1 Doe Run.

2 MR. SAMUEL: My name is Thomas L. Samuel.

3 I am counsel to the Plaintiffs in this case.

4 MR. HIRSCH: Charles Hirsch on behalf of  
5 Defendant, DuPont.

6 MR. CURTIS: Philip Curtis on behalf of  
7 Defendant, Atlantic Richfield Company.

8 MR. SKALLERUD: William R. Skallerud on  
9 behalf of The Glidden Company.

10 MR. MARK SULLIVAN: Mark L. Sullivan on  
11 behalf of the Lead Industries Association, Inc.

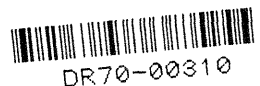
12 MR. CALDWELL: Adam Caldwell on behalf of  
13 Doe Run.

14 MR. AXELRAD: Peter Axelrad on behalf of  
15 Doe Run.

16 MR. HOUFF: Edward Houff on behalf of  
17 Sherwin-Williams Company.

18 MR. BUXBAUM: Edward Buxbaum on behalf of  
19 A. Bauer & Company.

20 MR. DENNIS SULLIVAN: Dennis Sullivan on  
21 behalf of Schuman Hardware.



\* \* \* \* \*

1  
2 Whereupon,

3 GARY E. WELCH

4 a witness herein, called for oral examination in the  
5 matter pending, being first duly sworn to tell the  
6 truth, the whole truth and nothing but the truth,  
7 testified as follows on

8 MR. SKALLERUD: Mr. Samuel, I apologize  
9 for interrupting. If I may put on the record what  
10 we discussed.

11 MR. SAMUEL: Please.

12 MR. SKALLERUD: For the purposes of the  
13 deposition today, one objection by any Defendant  
14 will be deemed an objection by all defendants. And  
15 also for the record, NL, which is not represented  
16 today, will also be part of that agreement whereby  
17 any objection made today will also be good for any.

18 MR. MARK SULLIVAN: I have one question.  
19 As to objections, must objections be made now or  
20 will we be reserving all objections and motions to  
21 strike until the time of trial?



DR70-00311

1 MR. SAMUEL: I would prefer you make them  
2 now.

3 MR. MARK SULLIVAN: Okay.

4 EXAMINATION

5 BY MR. SAMUEL:

6 Q Good morning, Mr. Welch. Would you state  
7 your full name for the record, please?

8 A My name is Gary Earl Welch.

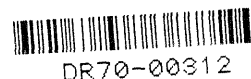
9 Q Mr. Welch, just a few simple ground rules.  
10 I will be asking you a series of questions today.

11 If I ask you a question which you don't  
12 understand, please ask me to clarify it, and I'll be  
13 happy to attempt to do so.

14 Your answers should be audible. And  
15 although we have a video which would take a shake or  
16 a nod, I prefer that you say yes or no for the  
17 record so the stenographer can get that down.

18 I will be showing you a few documents, and  
19 I want you to take your time, make sure you identify  
20 the document before I ask you questions about it.

21 What is your home address, Mr. Welch?



DR70-00312

1           A     205 Cornelia, C-O-R-N-E-L-I-A, Avenue,  
2     Glendale, Missouri 63122.

3           Q     And what is your business address?

4           A     The same.

5           Q     And your business telephone number?

6           A     Area code 314-822-9746.

7           Q     And by whom were you employed?

8           A     I am an independent contractor.

9           Q     You are self-employed?

10          A     Yes, I am.

11          Q     What is your, the nature of your  
12     association with the Defendant here today, Doe Run?

13          A     Doe Run is and has been a client of mine  
14     as an independent consultant. I worked for St. Joe  
15     Minerals Corporation between the timeframe or in the  
16     time period 1963 through 1987.

17          Q     And when you were employed at St. Joe  
18     Minerals, as you have stated, between the years 1963  
19     and 1987, what was your title?

20          A     My last title was vice-president of safety  
21     and environmental planning.



DR70-00313

1 Q Let's take you back to 1963 when you were  
2 initially employed by -- was it St. Joe Minerals at  
3 that time?

4 A I believe it was St. Joe Lead Company at  
5 that time.

6 Q St. Joseph Lead Company?

7 A St. Joe.

8 Q St. Joe. Okay. And what position were  
9 you initially hired by St. Joe Lead Company?

10 A I was hired in on a training program as  
11 just an engineer, technical. After about a year on  
12 a training program, I took a position in the  
13 research department at St. Joe, and my title there  
14 was research engineer.

15 Q That would have been approximately 1964?

16 A That's correct.

17 Q And what were the duties of your position  
18 as a research engineer?

19 A Principally economic and process-related  
20 research.

21 Q When you say process-related, would you



DR70-00314

1 explain that, please?

2       A     The facility at which I worked was St.  
3 Joe's zinc smelting in Monaca, Pennsylvania. It  
4 is a primary zinc smelter involving numerous  
5 metallurgical processes.

6             The work I did was both economic in nature  
7 and in terms of cost controls and process-related in  
8 terms of more efficient operations.

9       Q     And for how long were you in that  
10 position?

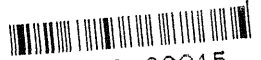
11       A     Until about 1972.

12       Q     And then -- what position did you then  
13 hold?

14       A     1972, I took the position of director of  
15 environmental control for the zinc smelter.

16       Q     And what were the nature of your duties in  
17 that position?

18       A     Zinc smelter at that point had numerous  
19 large engineering projects in order to comply with  
20 the then very new Clean Air Act, Clean Water Act and  
21 resulting regulations. My responsibility was the



DR70-00315

1 overall management of those programs and projects.

2 Q And for how long were you in that  
3 position?

4 A About two years.

5 Q And then in 1974, what position did you  
6 assume?

7 A I took on a position as director of  
8 environmental planning for St. Joe Minerals  
9 Corporation.

10 Q And the nature of your duties in that  
11 position, sir?

12 A I was overseeing the overall environmental  
13 program for the corporation as a whole, including  
14 engineering projects, study projects, and  
15 encompassed both environmental and occupational  
16 health programs.

17 Q Based on your prior testimony, I assume  
18 that from 1963 to 1974, you had been primarily  
19 involved in the zinc --

20 A That's correct.

21 Q In 1974, did you then begin to have some



DR70-00316

1 responsibilities for lead production by the company?

2 A For production operations, not lead  
3 production per se.

4 Q And when you say production operations,  
5 would you explain that to me?

6 A Well, lead production to me means pig lead  
7 out the door, and I was not responsible for pig lead  
8 out the door. I was responsible for environmental  
9 programs at the lead smelter.

10 Q Did you have any involvement in the mining  
11 end of the business?

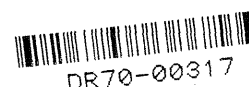
12 A I had the same general responsibility.

13 Q So you in your capacity as director of  
14 environmental planning, you had oversight  
15 responsibilities for lead production from mining  
16 through smelting; is that correct?

17 A Again, production in the context of the  
18 operations, not the physical product out the door.

19 Q I see. Meaning that you were not involved  
20 in sales in any way?

21 A That's correct.



1 Q Did you hold any subsequent titles with  
2 the company or did your title change after 1974 at  
3 all?

4 A It changed in about 1983 to vice-president  
5 of safety and environmental planning. At that time,  
6 I picked up responsibility for safety in addition to  
7 environmental and occupational health.

8 There was an intervening period in the  
9 late 1970s where I held some dual positions, one as  
10 vice-president of human resources for St. Joe Lead  
11 Company, and also vice-president of environmental  
12 planning for St. Joe Lead Company.

13 Q In your capacity as vice-president for --  
14 you say human relations?

15 A Human resources.

16 Q Human resources. Excuse me.

17 What were the nature of your duties in  
18 that capacity?

19 A Again, oversight of the personnel and  
20 human resource programs at the operations of St. Joe  
21 Lead Company.



DR70-00318

1           Q     In that capacity, did you have any  
2 responsibility for claims or lawsuits brought  
3 against the company for personal injury either by  
4 employees or third persons?

5           MR. AXELRAD:  Objection.  You can answer  
6 yes or no.

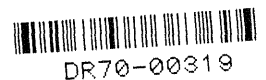
7           A     I have to answer indirectly.  They were  
8 within the purview of my responsibility, but they  
9 were handled by our legal department.

10          Q     In what way did you assist the legal  
11 department in handling personal injury claims and  
12 lawsuits brought against the company?

13          MR. AXELRAD:  I object.  What year are you  
14 talking about now, Mr. Samuel?

15          MR. SAMUEL:  The witness has testified  
16 that he had a responsibility as a vice-president for  
17 human resources, and then he testified in connection  
18 with another question that he had some involvement  
19 in personal-injury litigation against the company.

20          And I am just trying to flush out what his  
21 responsibilities were, that's all.



1 MR. AXELRAD: The reason I am asking is I  
2 don't know that you defined or the witness has  
3 defined the year. And it may be the year that he  
4 was involved is beyond the purview of this case, and  
5 we could save our time by not inquiring.

6 MR. SAMUEL: I will accept that, Pete.

7 BY MR. SAMUEL:

8 Q What year did you take on your  
9 responsibilities for human resources?

10 A I believe it was in the '78-79 timeframe.

11 Q And I would like to return to an earlier  
12 question. In what way did you assist your legal  
13 department in the handling of personal-injury claims  
14 litigation?

15 MR. AXELRAD: Objection. You can answer.

16 A There were no claims.

17 Q What period of time did you have that  
18 position that you said you started in 1978 or '79  
19 with human resources?

20 A '78 or '79.

21 Q Just for that period of time?



DR70-00320

1 A That's correct.

2 Q And it's your testimony that during that  
3 period of time, there were no personal-injury claims  
4 or lawsuits brought against St. Joe Minerals that  
5 you were involved in?

6 A There were Workmen's Compensation  
7 proceedings, but no third-party claims, that is  
8 correct.

9 Q I think we have you now up to 1983 as  
10 vice-president for safety and environmental  
11 concerns. And you left the company in 1987. Did  
12 you have any title changes after 1983, sir?

13 A No, I did not.

14 Q And you testified that you left the  
15 company in 1987. What was the nature of your  
16 severing your employment relationship with the  
17 company?

18 MR. AXELRAD: Objection. You may answer.  
19 It's not relevant, but if it doesn't invade your  
20 privacy, Mr. Welch, you can answer.

21 A I didn't leave the company, the company

DR70-00321

1 left me.

2 Q I see.

3 A St. Joe was a wholly-owned subsidiary  
4 corporation, and Fluor sold various components of  
5 the corporation. When that happened, my position  
6 went away.

7 Q I see. Then in 1987 after the  
8 termination, if that's appropriate, of your  
9 relationship with the company, what did you then do?

10 A I became an independent consultant.

11 Q Holding yourself out in what areas as a  
12 consultant?

13 A Principally environmental.

14 Q Did your former employer become a client  
15 of yours at that time?

16 A St. Joe at that point had ceased to exist.  
17 Doe Run was still a joint venturer with -- that was  
18 controlled by Fluor, part of which was controlled by  
19 Fluor Corporation. I did some work for Doe Run and  
20 also for Fluor.

21 Q In the area of environmental regulation?



DR70-00322

1 A That's correct.

2 Q What other clients did you or have you had  
3 as an independent consultant beginning in 1987 and  
4 continuing to the present?

5 MR. AXELRAD: Mr. Samuel, with all due  
6 respect to you, I don't think that's a fair  
7 question. He is not here to discuss or he didn't  
8 anticipate coming here to discuss the nature of his  
9 personal business.

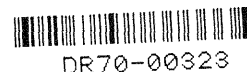
10 Anything to do with my client is clearly  
11 fair game within the bounds of the notice, but this  
12 is personal to him. I frankly don't know the full  
13 answer to this question, and I would ask you to  
14 reconsider this question. I mean, it's not relevant  
15 to this case, is it?

16 MR. SAMUEL: No, sir, I won't. You can  
17 direct him not to answer if you choose.

18 MR. AXELRAD: The nature of his business,  
19 his personal business?

20 MR. SAMUEL: I am asking him --

21 MR. AXELRAD: For the names of his



DR70-00323

1 clients? That's what you asked him, the names of  
2 his clients?

3 MR. SAMUEL: Yes.

4 MR. AXELRAD: I am going to instruct him.

5 MR. SAMUEL: All right.

6 MR. AXELRAD: I don't think it's  
7 appropriate to ask Mr. Welch within the bounds of  
8 the notice. And I know you are aware of that the  
9 course of our dealing was primarily with  
10 Mr. Richardson, but we have communicated with  
11 Mr. Richardson about the notice, and even a fair  
12 liberal -- the fairest liberal reading of the notice  
13 does not entertain an inquiry of Mr. Welch's  
14 clientele excluding my client.

15 He is a consultant, he has done work for  
16 my client, he has told you about his experience with  
17 the client pre '87. It's just, it's invading his  
18 privacy, and it's overwhelmingly irrelevant.

19 Even though I am slow to ordinarily  
20 instruct the witness not to answer, I think this is  
21 beyond the bounds with all due respect, and I will



DR70-00324

1 instruct him not to answer the question.

2 MR. SAMUEL: Well, for the record, this  
3 gentleman has been put forward as the corporate  
4 designee of Doe Run Corporation.

5 And I think I am entitled to fully develop  
6 the nature of his business relationships and not  
7 restrict it to Doe Run. And I will certify that  
8 question.

9 BY MR. SAMUEL:

10 Q Mr. Welch, you testified you had done some  
11 work for Doe Run and for Fluor Corporation. How  
12 would you characterize the nature of that  
13 consultancy over the some seven or eight years  
14 since 1987?

15 A Primarily technical consulting, dealing  
16 with the nature of St. Joe's operations in the time  
17 period and some preceding time period in which I was  
18 employed at St. Joe.

19 Q And would that -- would you be  
20 consulting with respect to issues involving the  
21 company's lead production?



DR70-00325

1 A Environmental issues, yes.

2 Q Let me step back. You say that you were  
3 hired in 1963 as an engineer. Where did you receive  
4 your higher education training, Mr. Welch?

5 A I have a Bachelor's and a Master's Degree  
6 in metallurgical engineering from the University of  
7 Missouri at Rolla, R-O-L-L-A.

8 Q And when did you receive your BS Degree?

9 A 1962.

10 Q And your Master's Degree?

11 A 1963.

12 Q Mr. Welch --

13 MR. SAMUEL: Would you mark this, please,  
14 as Deposition Exhibit 1.

15 (Whereupon, Welch Deposition Exhibit  
16 Number 1 was marked for identification.)

17 BY MR. SAMUEL:

18 Q Mr. Welch, I am going to hand you what has  
19 been marked for identification as your Deposition  
20 Exhibit Number 1. Have you seen that document prior  
21 to coming here this morning?



DR70-00326

1 A Yes, I have.

2 Q And when did you first see it?

3 A I believe I was first shown this in the  
4 offices of counsel.

5 Q Mr. Axelrad's offices?

6 A That's correct.

7 Q And when was that?

8 A Approximately one month ago.

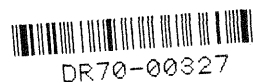
9 Q And what preparation had you undertaken  
10 prior to coming here today to give testimony as Doe  
11 Run's corporate designee?

12 A I have met with Mr. Axelrad, Mr. Caldwell  
13 on three occasions. I have reviewed this notice, I  
14 reviewed the Doe Run's answers to your  
15 interrogatories, and also, Doe Run's admissions in  
16 the proceedings.

17 Q Did you review any corporate documents?

18 A No, I did not.

19 Q How is it you came to be selected as Doe  
20 Run's corporate designee for the purposes of this  
21 deposition?



DR70-00327

1           A     I think that selection was made based upon  
2 my prior and continuing association with Doe Run and  
3 its predecessor companies, the fact that I had  
4 experience in all, most, if not all, of the areas  
5 that were identified in the deposition notice, and  
6 that I certainly had a longer tenure of experience  
7 with Doe Run than any current Doe Run employee.

8           Q     Have you ever previous to today been  
9 designated as Doe Run's corporate designee for  
10 purposes of a deposition?

11          A     No, I have not.

12          Q     Let me step back again. In 1983, you said  
13 that you became a vice-president with  
14 responsibilities in part for safety; is that  
15 correct?

16          A     That's correct.

17          Q     And what were your safety responsibilities  
18 to the corporation?

19          A     We had a president at that time that was  
20 very safety conscious and insisted on safe,  
21 continuing safe operations, and wanted somebody in



DR70-00328

1 his office that could enforce his will. And I  
2 became that person.

3 Q What, if any, responsibilities did you  
4 have in that position for product safety?

5 A None.

6 Q Turning, Mr. Welch, to the Notice of  
7 Deposition which you have before you, Item Number 1  
8 of the notice deals with the authentication of the  
9 documents produced by Doe Run.

10 I have here before me a stack of documents  
11 which have been produced by Doe Run pursuant to the  
12 Plaintiff's request for production of documents.  
13 And they bear Bates stamp numbers 001 to 0814.

14 Did you -- as part of your preparation  
15 for this deposition, did you review the documents  
16 produced by Doe Run?

17 A Not as part of preparation for this  
18 deposition.

19 Q Have you ever seen these documents?

20 A I believe so.

21 Q And when did you see them?



DR70-00329

1           A     I am not sure what the documents are at  
2 this point. But I believe --

3           MR. AXELRAD: Would it be easier for you  
4 to respond to Mr. Samuel's question if you had a  
5 chance to look at the documents?

6           THE WITNESS: It would certainly give me  
7 some comfort.

8           MR. SAMUEL: I would be delighted. Why  
9 don't we recess a minute while we are doing that. I  
10 am going to go get a drink of water.

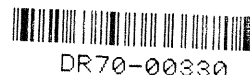
11           (Brief recess)

12           VIDEO OPERATOR: We are back on the  
13 record. The time is approximately 10:39 a.m.

14 BY MR. SAMUEL:

15           Q     Mr. Welch, have you completed your review  
16 of the documents which I handed you before the  
17 recess?

18           A     I have leafed through them. These appear  
19 to be copies of Saint Joe's annual reports from the  
20 timeframe about 1928 through 1970-something,  
21 including copies of minutes of its Board of



DR70-00330

1 Directors meetings for some years in that timeframe.

2 Q And, sir, have you seen these documents  
3 prior to coming here today?

4 A Yes, I have.

5 Q And where did you see those documents?

6 A I dug these documents out of Doe Run's  
7 files.

8 Q You personally did so?

9 A Yes, I did.

10 Q Who, if anyone, directed you in that  
11 document search?

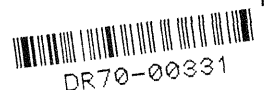
12 A I was asked to do this by Walter Nowotny  
13 of Doe Run.

14 Q And who is Mr. -- what is Mr. Nowotny's  
15 title?

16 A I think his title is assistant secretary  
17 and general counsel or secretary and general counsel  
18 for Doe Run Company.

19 Q And from what depository or what location  
20 did you unearth these documents?

21 A Most of these documents were located in



1 what is known as the vault, secured record storage  
2 at Doe Run's Viburnum, V-I-B-U-R-N-U-M, division.

3 Q Is that in the State of Missouri?

4 A Yes, it is.

5 Q Are all of Doe Run's corporate documents  
6 located at Viburnum?

7 A No, they are not.

8 Q What other document depositories does Doe  
9 Run have other than the one you have testified to  
10 located in Viburnum, Missouri?

11 A It stores certain records at its offices  
12 in Creve Coeur, Missouri, its headquarters in Creve  
13 Coeur, Missouri. There are also two warehouse  
14 locations where historic records are stored. Those  
15 are both located in St. Louis.

16 Q What records are stored at Viburnum?

17 A Well, records of this type, copies of  
18 reports, copies of current financial data, general  
19 business records, and they also have copies of  
20 minute books, normal corporate records.

21 Q And what records are stored at the upper



DR70-00332

1 Missouri location, you said what, Cop Creek?

2 A Creve Coeur.

3 Q Creve Coeur.

4 A Creve Coeur is their current headquarters.

5 And the most recent, current business records would  
6 be maintained at that location.

7 Q And what period of time is included in  
8 your definition of current records?

9 A I would say something in the five-year  
10 category.

11 Q And when documents age five years, what  
12 are then done with them?

13 A I really don't know.

14 Q You testified that other records were  
15 stored in archives in St. Louis; is that correct?

16 A There are other records archived in St.  
17 Louis, that is correct.

18 Q And what is the nature of those records?

19 A The same general types of records that I  
20 previously identified, although they will tend to be  
21 somewhat spotty.



DR70-00333

1           St. Joe relocated its offices at least  
2 once. St. Joe was sold at least once. Records were  
3 shipped around the country ad nauseam. And  
4 consequently, there is much disarray, and it's not  
5 clear to me that some records have not been lost.

6           Q     Are you, in fact, able to authenticate  
7 these documents in front of you as true copies of  
8 records in the Doe Run record depository at  
9 Viburnum?

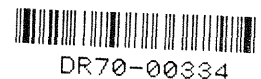
10          A     If these are, in fact, the copies that  
11 were delivered to you by Jackson & Campbell, yes.

12          Q     Your testimony is that you procured  
13 these --

14               MR. AXELRAD: Mr. Samuel, we will  
15 stipulate that the records, these records that are  
16 in front of Mr. Welch at this moment that my law  
17 firm presented to your law firm are copies of our  
18 records.

19               MR. SAMUEL: That's fine. Hand those  
20 back, if you will.

21 BY MR. SAMUEL:



1           Q     Mr. Welch, I am going to show you a page  
2 which I have extracted from the St. Joseph's Lead  
3 Company's annual report with stockholders for the  
4 year 1962 which is one of the documents you leafed  
5 through a little earlier.

6                     And the excerpted page from that annual  
7 report of 1962 bears a Bates stamp number 0442.

8           A     Um-humm.

9           Q     Correct me if I am wrong, but the top half  
10 of that page appears to lift statistics for the  
11 United States for the production and consumption of  
12 lead in short tons. Will you agree with that  
13 definition, sir?

14          A     Yes, I would.

15          Q     And under the subcategory consumption,  
16 there are lifted several consuming industries, and  
17 the fifth one is the word pigments. Do you see  
18 that, sir?

19          A     Yes, I do.

20          Q     And there is an indication there that in  
21 1962, there were 98,000 short tons of pigments



DR70-00335

1 consumed in the United States. Is that accurate?

2 A That's what the figures say.

3 Q And, of course, in 1961, which is the  
4 final figure, 99,000 tons were consumed; is that  
5 correct?

6 A That's again what the table says.

7 Q In the year 1962, did the St. Joseph Lead  
8 Company produce and sell lead pigments as one of its  
9 lead products?

10 A No, we did not.

11 Q Maybe I can shorten this up. Has either  
12 St. Joe Lead Company, its successor, St. Joe  
13 Minerals Corporation or Doe Run Corporation ever  
14 manufactured and sold lead pigment as a production?

15 A No, they have not.

16 Q Thank you. Did the St. Joseph Lead  
17 Company produce smelted lead which was sold to other  
18 companies which produced lead pigment?

19 A I really cannot answer that.

20 Q Who in Doe Run management could answer  
21 that question for me?



DR70-00336

1           A     The timeframe that you are talking about,  
2 I am not sure that anyone can.

3           Q     You are addressing yourself now to the  
4 early 1960s?

5           A     Yes.

6           Q     Let me ask you the same question. How  
7 about now today in 1996, does Doe Run Corporation  
8 sell smelted lead to producers of lead pigment?

9           MR. AXELRAD: Wait a minute. I object.  
10 It is not within this case, Mr. Samuel, as I know  
11 you know, and it's clearly not within the notice.

12                     And I really do not want to get into a  
13 series of questions on what the company does today.  
14 I mean, I don't know how to deal with this situation  
15 other than to say that.

16                     There is no reason -- I mean, if you can  
17 attempt to persuade me why we should answer it,  
18 whatever the answer is, and I don't know the answer  
19 because I didn't anticipate a need to respond.

20                     Especially if you look down to your  
21 notice, which I am looking at at this moment, there

DR70-00337

1 is nothing -- not only is the suit, the latest  
2 date have anything to do with the defendants that is  
3 relevant to my understanding from the complaint,  
4 that everything that I have heard in court and all  
5 of the papers that I have, the late date is 1980.

6 The notice does not elongate this either.  
7 So why should we, all of us take our valuable time  
8 to deal with issues that relate to the current time?  
9 It may be nice to learn.

10 MR. SAMUEL: That was a wonderful speaking  
11 objection, Mr. Axelrad. Are you going to permit him  
12 to answer or not?

13 MR. AXELRAD: No. I want you to persuade  
14 me -- I am giving you the opportunity in light of  
15 the notice, in light of the communications between  
16 counsel relating to the notice why we should -- you  
17 should be permitted to probe issues that relate to  
18 the current time. That's all.

19 I am trying to be courteous. I see  
20 nothing in the case or in the notice that should  
21 generate any questions to the present.



DR70-00338

1 MR. SAMUEL: Either let him answer or  
2 direct him not to.

3 MR. AXELRAD: You don't want to respond?

4 MR. SAMUEL: No.

5 MR. AXELRAD: We are not going to answer  
6 anything about our business today.

7 BY MR. SAMUEL:

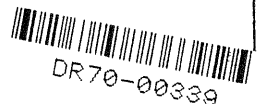
8 Q Let me ask you this question, Mr. Welch:  
9 From the year 1980, did whatever your corporate  
10 entity was then called, did it produce smelted lead  
11 which it sold to pigment manufacturers?

12 A I can only answer that in the context that  
13 St. Joe sold lead to companies who, among other  
14 things, had the capability for producing the  
15 pigment. I do not know specific companies.

16 Q Prior to coming here today, did you review  
17 any of the sales records of Doe Run or its  
18 predecessors?

19 A Yes, I did.

20 Q And for what period of time did you review  
21 sales records prior to coming here?



1           A     From about the period 1920 or '25 through  
2 1960 or '65.

3           Q     And where are those records archived?

4           A     Many of them -- most of them are located  
5 at Viburnum.

6           Q     And it's your testimony that Doe Run and  
7 its predecessors sold smelted lead to companies  
8 capable of producing lead pigment. Is that  
9 testimony based on your review of those sales  
10 records?

11           MR. AXELRAD: Can I ask you a question,  
12 Mr. Samuel? And perhaps I am a little late in doing  
13 it, but it's not too late. Would you help me and  
14 perhaps the witness to define, as you raised the  
15 question, pigment?

16           MR. SAMUEL: I will accommodate you,  
17 Mr. Axelrad, by asking the witness what he  
18 understands lead pigment is. I am just a dumb  
19 lawyer.

20           MR. AXELRAD: I had a hunch you didn't  
21 want to answer that question, Mr. Samuel. Go ahead,



DR70-00340

1 Mr. Welch.

2 THE WITNESS: Pigment in general is a  
3 finally divided material that has certain definite  
4 properties either in terms of color or crystal in  
5 shape or both. That's a general definition of  
6 pigment.

7 BY MR. SAMUEL:

8 Q Have you seen lead pigment in your long  
9 involvement with Doe Run and its predecessors?

10 A I have seen various lead pigments, yes.

11 Q And in what form is it, a powder or --

12 A You could most conveniently characterize  
13 it as a powder, yes.

14 Q And is it -- strike that. Is it  
15 processed through smelted lead?

16 A Most of the time, yes.

17 Q In that you start with a pig of smelted  
18 lead, and then it's processed, and lead pigment is  
19 the product that results from that process?

20 A There may be various stages of processing  
21 that go from the pig of lead to the pigment product,

DR70-00341

1 but yes.

2 Q So based on your testimony, so far as you  
3 know, St. Joe, to use a generic term, its  
4 involvement ends with the production and sale of the  
5 lead pig; is that correct?

6 A That is correct.

7 Q In your review of the sales records in  
8 preparation for this deposition, did you see any  
9 records of sales by St. Joe to either Atlantic  
10 Richfield, NL Industries, Sherwin-Williams, DuPont,  
11 Glidden or Fuller-O'Brien between the years 1950 and  
12 1980?

13 MR. AXELRAD: Mr. Samuel, I hate to  
14 interrupt, but he did not testify that he reviewed  
15 those records in preparation for this deposition.

16 MR. HOUFF: Object to the form of the  
17 question.

18 MR. AXELRAD: I am just going to mention  
19 it to you because you are characterizing his  
20 testimony. That is not what he said. But I will  
21 let him answer to the best of his ability.



DR70-00342

1   Objection to the answer.

2           A     I was asked to review the sales records of  
3   St. Joe before I was asked to represent Doe Run as a  
4   corporate witness in this proceeding.  So I did not  
5   review the sales records in preparation for this  
6   testimony.  I had reviewed them preceding.

7           Q     Thank you.  And what did that review  
8   consist of, Mr. Welch?

9           A     Of reviewing the sales records.

10          Q     Did you look at them by year, for example?

11          A     Yes.

12          Q     Are they stored by year?

13          A     They are now.

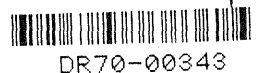
14          Q     Were they at the time that you reviewed  
15   them?

16          A     No, they were not.

17          Q     Were they broken down by customer?

18          A     Certain of the records were broken down by  
19   customer.

20          Q     And with reference to the last question,  
21   did you note sales records to any of the companies



1 that I inquired of a few minutes ago?

2 MR. HOUFF: Object to the form.

3 Q You may answer.

4 A Would you repeat the list for me? And as  
5 we go through it, I will tell you whether or not I  
6 saw that name.

7 MR. SAMUEL: Sure. We will go one by one.

8 MR. AXELRAD: And what is the time  
9 reference, Mr. Samuel?

10 MR. SAMUEL: 1950 to 1980, Mr. Axelrad.

11 BY MR. SAMUEL:

12 Q Atlantic Richfield.

13 MR. CURTIS: Object to form.

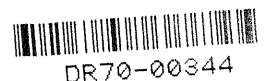
14 A I am not sure that I went all the way to  
15 1980, but what was the first year?

16 Q 1950 to 1980.

17 A 1950. I went through at least 1970 and  
18 perhaps for a few years thereafter. Atlantic  
19 Richfield, no, I did not see that name.

20 Q How about NL Industries?

21 A Yes.



1 Q And what lead products were indicated by  
2 those sales records as having been sold by St. Joe  
3 to NL Industries?

4 MR. AXELRAD: Objection. You may answer.

5 A Pig lead.

6 Q Sherwin-Williams?

7 MR. AXELRAD: Objection.

8 A I did see Sherwin-Williams.

9 MR. MARK SULLIVAN: I am sorry. I did not  
10 hear the answer. You did or did not?

11 THE WITNESS: I did see Sherwin-Williams.

12 Q And what products were indicated, by those  
13 records were indicated to have been sold to  
14 Sherwin-Williams?

15 MR. AXELRAD: Objection.

16 A Pig-lead.

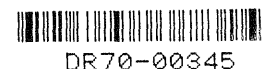
17 Q DuPont?

18 MR. AXELRAD: Objection.

19 MR. HIRSCH: Objection.

20 MR. AXELRAD: You may answer.

21 A Yes.



DR70-00345

1 Q And what product?

2 MR. AXELRAD: Objection.

3 A Pig lead.

4 Q Glidden?

5 MR. SKALLERUD: Objection.

6 MR. AXELRAD: Objection. You may answer.

7 A I do not recall seeing the name Glidden.

8 Q Fuller-O'Brien?

9 A I did not see the name Fuller-O'Brien.

10 Q Inquiry Number 5 on the Notice of  
11 Deposition to be inquired into at this deposition  
12 asked as to Doe Run and its predecessors during the  
13 time period between 1928 and 1980 the company's  
14 involvement in the Lead Industries Association, Inc.

15 What investigation did you make before  
16 coming here today to determine St. Joseph Lead  
17 Company's involvement in the Lead Industries  
18 Association or formerly known as LIA?

19 A I did not make any investigation.

20 Q Why not?

21 A Among other things, I didn't feel it was



DR70-00346

1 necessary.

2 Q Why did you feel it was not necessary?

3 A I am reasonably familiar with St. Joe's  
4 role in LIA.

5 Q You have personal familiarity with LIA's  
6 involvement -- strike that -- with St. Joe's  
7 involvement with the LIA?

8 A Yes, I do.

9 Q And when did you first have some personal  
10 involvement in St. Joe's association with the LIA?

11 A I first became associated with LIA in  
12 about 1973.

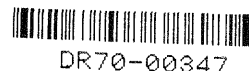
13 Q And how did you become so associated?

14 A I started to attend meetings of the LIA  
15 Environmental Health Committee.

16 Q For how long a period of time did you  
17 continue as Saint Joe's representative on the LIA  
18 Environmental Committee?

19 MR. CALDWELL: Objection.

20 MR. MARK SULLIVAN: That wasn't his  
21 testimony.



DR70-00347

1           A     I was never officially St. Joseph's  
2 representative on the Environmental Health  
3 Committee.

4                     That honor was normally assigned to  
5 somebody from the lead smelter. I was there from  
6 the standpoint of a corporate position within the  
7 Health Committee.

8           Q     In 1973, who was the St. Joe official  
9 representative on the Environmental Committee?

10          A     It would have been Don Bielstein,  
11 B-I-E-L-S-T-E-I-N.

12          Q     Mr. Bielstein was the official  
13 representative, but you accompanied him to  
14 Environmental Committee meetings of LIA?

15          A     That is correct.

16          Q     And for what period of time did you  
17 continue to attend with Mr. Bielstein meetings of  
18 the Environmental Committee of LIA?

19          A     Don retired in about oh, 1980, I want to  
20 say, sometime in that timeframe. His successors --

21                     MR. AXELRAD: Wait a minute. The



DR70-00348

1 question -- I will interrupt simply to note  
2 because you did not, Mr. Samuel, that the question's  
3 time reference ends in 1980. And I ask you,  
4 Mr. Samuel, to incorporate that into your question  
5 in light of the notice.

6 MR. SAMUEL: That's fine.

7 MR. AXELRAD: So, Mr. Welch, please don't  
8 discuss the subject beyond 1980.

9 THE WITNESS: Through 1980, I attended  
10 meetings with Don Bielstein.

11 BY MR. SAMUEL:

12 Q Did the LIA have other committees apart  
13 and separate from the Environmental Committee, if  
14 you know?

15 A Yes, it does.

16 MR. AXELRAD: Mr. Welch. Can I interrupt,  
17 Mr. Samuel? You answered in the present. You said  
18 yes, it does. Would you direct your answers to the  
19 time period 1928 to 1980, please.

20 THE WITNESS: In the timeframe that I am  
21 familiar with, '73 through '80, there were other



DR70-00349

1 committees, yes.

2 MR. AXELRAD: Thank you.

3 BY MR. SAMUEL:

4 Q Can you identify those other committees  
5 for the record that existed between 1973 and 1980?

6 MR. MARK SULLIVAN: Objection.

7 MR. AXELRAD: You can answer.

8 A I don't know that I can name them  
9 specifically, but there were marketing committees.  
10 There certainly was an executive committee. There  
11 were committees dealing with new products, product  
12 development. Those committees, I recall  
13 specifically.

14 Q If you know, has Doe Run kept copies of  
15 the records of the proceedings of the LIA?

16 MR. CALDWELL: Objection.

17 A I did not discover any records when I  
18 reviewed St. Joe's records. I did not discover any  
19 records regarding LIA when I reviewed St. Joe's  
20 records.

21 Q When you terminated your relationship as



DR70-00350

1 an employee of the company in 1987, what was the  
2 document-retention policy of the company at that  
3 time?

4 A There was no official document-retention  
5 policy.

6 Q As a consultant to the company for the  
7 period of time from 1987 onward, would you be in a  
8 position to know whether the company adopted a  
9 document-retention policy at some subsequent time?

10 A No, I am not.

11 Q In reviewing the records of Doe Run in  
12 preparation for coming here today, did you make any  
13 inquiry as to the existence of a corporate  
14 document-retention policy?

15 A Yes, I did.

16 Q And what were you told?

17 A That we were working on one.

18 Q Okay. And who told you that?

19 A Walter Nowotny.

20 Q He is the gentleman you identified earlier  
21 in your testimony?



DR70-00351

1 A That's correct.

2 Q Are any Doe Run records kept in other  
3 forms such as in computer memory banks?

4 A In the timeframe that we are talking  
5 about, 1980 and prior, there would have been some  
6 production records and some financial records that  
7 would have been computerized.

8 Q And where is the archives of those  
9 computer tapes?

10 A I don't know.

11 Q During that relevant time span 1950 to  
12 1980, were company records preserved and stored by  
13 any other methods such as, for example, microfiche?

14 A No, they were not.

15 Q Commencing in 1963 when you were initially  
16 employed and going up to 1980, did Doe Run or its  
17 predecessor, St. Joe, operate lead mines?

18 A Yes, we did.

19 Q And where were those lead mines located?

20 A Initially, the lead mines were in the  
21 so-called Old Lead Belt, Missouri which is south of

1 St. Louis, Missouri, in the Bonneterre,  
2 B-O-N-N-E-T-E-R-R-E, area.

3 In about -- those mines were largely  
4 played out in the late '50s and early '60s. By  
5 about 1965, maybe '66, St. Joe had started to mine  
6 in the so-called New Lead Belt of Missouri which is  
7 the Viburnum area of Missouri.

8 All operations were closed down in the Old  
9 Lead Belt in about 1974.

10 MR. SAMUEL: Off the record.

11 (Discussion held off the record)

12 VIDEO OPERATOR: Back on the record. The  
13 time is approximately 11:12.

14 BY MR. SAMUEL:

15 Q You have testified that when the old mines  
16 in the so-called Old Belt Area were played out, St.  
17 Joe opened new mines in the Viburnum area?

18 A That's correct.

19 Q And how many mines were in operation, say,  
20 by 1980 in that district?

21 A In 1980 in the Viburnum district?

1 Q Yes.

2 A St. Joe mines?

3 Q Yes.

4 A I believe there were three. Correction.

5 There were four. There were three mills and four  
6 mines.

7 Q And was there a smelter within that area  
8 as well?

9 A No, the smelter continued to be located at  
10 Herculaneum, Missouri.

11 Q Did St. Joe operate lead mines elsewhere  
12 than in the United States in that timeframe 1963 to  
13 1980?

14 A Yes.

15 Q And where were they?

16 A There was one lead silver mine located in  
17 Argentina, northern portion of Argentina, Aguilar  
18 mine, A-G-U-I-L-A-R.

19 St. Joe also had mining properties in Peru  
20 and Australia, both of which produced -- well, the  
21 mines in Peru were principally zinc mines, but they

1 did produce some lead concentrates.

2 And the mine in Australia was principally  
3 a copper mine, but it also produced some lead  
4 concentrates.

5 Q Item Number 6 of the Notice of Deposition  
6 inquired that to the extent which Doe Run or its  
7 predecessors held executive meetings during which  
8 the hazards of lead were discussed and/or at which  
9 there were policy discussions regarding appropriate  
10 user warnings of lead hazards.

11 In preparation for coming here today, did  
12 you search the document archives of Doe Run and its  
13 predecessors to determine if there were written  
14 records of any such executive meetings?

15 A Subject to the same thing I said  
16 previously, that that work was done prior to the  
17 Notice of Deposition or my seeing the Notice of  
18 Deposition.

19 I reviewed St. Joe records relating to  
20 this question, and I did not identify any meetings  
21 at which warnings, general subject of warnings were

1 discussed.

2 Q Did you discuss that topic with anyone in  
3 management as to the existence of any such records?

4 A I certainly discussed with everyone that I  
5 could lay my hands on where additional records might  
6 be located.

7 Q Can you recall the names of any of these  
8 people you discussed this subject matter with?

9 A Well, Walter was certainly one. Other  
10 people as I encountered them, if they knew the  
11 existence of other storage areas.

12 Q And you were told what?

13 A I was told that the records that we had  
14 identified were all of the records that we had.

15 Q I am not going to mark this, but I am  
16 going to show--you, Mr. Welch, an excerpted page from  
17 the St. Joseph Lead Company annual report of 1966, a  
18 30-page document beginning with Bates stamp number  
19 0553 and concluding with 0583.

20 And the page I am going to show you is  
21 Bates stamp page number 0567. And I will direct

1 your attention to the last paragraph under the  
2 subtopic Lead Smelting. That paragraph reads quote,  
3 "St. Joe's market for lead are growing. Traditional  
4 uses as in gasoline additives, automobile batteries,  
5 glass, paint and ammunition continue to expand when  
6 new uses are being made possible by such  
7 developments such as dispersion-strengthened lead."

8 In your review of the sales records to  
9 which you have earlier given testimony, you  
10 identified certain paint companies as customers for  
11 St. Joe pig lead. Those would be companies  
12 obviously involved in the paint industry.

13 Were there any other paint manufacturers  
14 other than those that you identified earlier to  
15 which St. Joe sold lead?

16 MR. HOUFF: Object to the form.

17 MR. AXELRAD: Objection. I am going to  
18 let him answer, Mr. Samuel, even though I think it's  
19 fair to say that it is not referred to anywhere in  
20 the notice. But if you can recall the answer over  
21 my objection, please do so.

1       A       I don't recall any specific companies that  
2 I would identify as a paint company.

3               MR. SAMUEL: That's all I have.

4               MR. AXELRAD: Thank you very much. Does  
5 anyone have any questions of the deponent? Not  
6 hearing anything, I have no questions. And thank  
7 you very much., Mr. Samuel. And we would like to  
8 read it at your convenience. Thank you very much.

9               VIDEO OPERATOR: The deposition of Gary  
10 Welch is concluded. The time is approximately 11:21  
11 a.m.

12               (Deposition concluded at 11:21 a.m.)  
13  
14  
15  
16  
17  
18  
19  
20  
21

1 State of Maryland

2 Harford County

3 I, Denise M. Thomas, a Notary Public of the  
4 State of Maryland, Harford County, do hereby  
5 certify that the within-named witness personally  
6 appeared before me at the time and place herein set  
7 out, and after having been first duly sworn by me,  
8 according to law, was examined by counsel.

9 I further certify that the examination was  
10 recorded stenographically by me and this transcript  
11 is a true record of the proceedings.

12 I further certify that I am not of counsel  
13 to any of the parties, nor an employee of counsel, nor  
14 related to any of the parties, nor in any way  
15 interested in the outcome of the action.

16 As witness my hand and seal this 26th day  
17 March, 1996.

18

19 Denise M. Thomas

20 My Commission Expires 9-8-98.

21

## INDEX

Deposition of Gary E. Welch

March 12, 1996

| EXAMINATION BY: | PAGE |
|-----------------|------|
| Mr. Samuel      | 6    |

| EXHIBIT | DESCRIPTION          | PAGE |
|---------|----------------------|------|
| 1       | Notice of deposition | 20   |



DR70-00360

## 1 ERRATA AND SIGNATURE SHEET

2 I, GARY E. WELCH, have read the foregoing  
3 and verify the same to be stenographically accurate  
4 with the exception of the following changes (if  
5 any):

| 6  | Page | Line | Reads | Should Read |
|----|------|------|-------|-------------|
| 7  |      |      |       |             |
| 8  |      |      |       |             |
| 9  |      |      |       |             |
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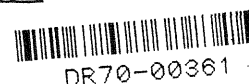
18 ( ) I have no corrections.

19

20

21

Signature of Deponent



DR70-00361

|                                              |   |                                                  |
|----------------------------------------------|---|--------------------------------------------------|
| ALLEN WRIGHT, et al.                         | * | IN THE                                           |
| Plaintiffs                                   | * | CIRCUIT COURT                                    |
| v.                                           | * | FOR                                              |
| LEAD INDUSTRIES ASSOCIATION,<br>INC., et al. | * | BALTIMORE CITY                                   |
| Defendants                                   | * | CASE NOS. 94363042/CL190487<br>94363043/CL190488 |

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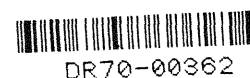
NOTICE TO TAKE VIDEOTAPE DEPOSITIONS

TO: ALL COUNSEL

This Notice of Depositions supersedes and therefore replaces the Notice of Depositions served in the above captioned matter on January 30, 1996.

You are hereby notified that the Plaintiffs, represented by the Law Offices of Peter G. Angelos, pursuant to the terms and provisions of the Maryland Rules, will take the deposition, upon oral examination of the following, to be used for any and all permissible purposes, before a Notary Public of the State of Maryland, or any other duly qualified officer who may be selected to act in his or her place, by stenographic and videotape recording at the Law Offices of Peter G. Angelos, 300 East Lombard Street, 18th Floor, Baltimore, Maryland 21202, on the dates and times set forth below, to be continued from time to time until completed.

| <u>NAME</u>                | <u>DATE</u> | <u>TIME</u> |
|----------------------------|-------------|-------------|
| A. Bauer & Company         | 03/06/96    | 10:00 AM    |
| The Glidden Company        | 03/07/96    | 10:00 AM    |
| Atlantic Richfield Company | 03/11/96    | 10:00 AM    |



|                                   |          |          |
|-----------------------------------|----------|----------|
| Doe Run Resource Corporation      | 03/12/96 | 10:00 AM |
| E.I. DuPont DeNemours             | 03/14/96 | 10:00 AM |
| Lead Industries Association, Inc. | 03/20/96 | 10:00 AM |
| Schumann Hardware                 | 03/21/96 | 10:00 AM |
| NL Industries, Inc.               | 03/25/96 | 10:00 AM |
| Sherwin Williams                  | 03/28/96 | 10:00 AM |
| O'Brien Corporation               | 04/09/96 | 10:00 AM |

Each Defendant listed above is hereby advised that pursuant to Maryland Rule 2-412(d), it must designate one or more record custodians, officers, directors, managing agents, or other persons qualified to testify on its behalf regarding the following matters known or reasonably available to it:

1. The authentication of each of the documents produced by Defendants.

2. The extent to which each Defendant was aware of the hazardous nature of lead, lead pigment and/or lead paint and the date(s) when each Defendant first became aware of those hazards.

3. The years during which each Defendant was aware of the availability of lead-free residential paint products and/or marketed lead-free paint products as an alternative to, a replacement for or a substitute for leaded paints for residential applications.

4. The extent to which each Defendant marketed, lead, lead pigment and/or lead paint products to any of its co-Defendants and/or to the State of Maryland between 1950 - 1980.

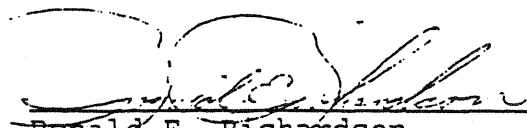
5. Each Defendant's involvement in the Lead Industries Association, Inc. or the National Paint Varnish and Lacquer Association between 1928 - 1980.

6. The extent to which each Defendant held executive meetings during which the hazards of lead were discussed and/or at which there were policy discussions regarding appropriate user warnings of lead hazards.

7. The extent to which each Defendant has information and/or knowledge concerning Plaintiffs' design defect, negligent failure to adequately warn, strict liability, conspiracy and punitive damages claims against Defendants where applicable.

Respectfully submitted,

  
\_\_\_\_\_  
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\_\_\_\_\_  
Ronald E. Richardson

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this foregoing Amendment by Interlineation on this 23rd day of February, 1996 was mailed, by first class, postage prepaid to:

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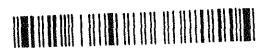
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